



THIS CONTRACT is hereby made, entered into, and effective as of July 01, 2023, by and between GUILFORD COUNTY, a body politic and corporate of the State of North Carolina, hereinafter referred to as the “COUNTY,” and TOSHIBA AMERICA BUSINESS SOLUTIONS, INC, hereinafter referred to as the “CONTRACTOR,” and also collectively referred to as the “Parties.”

W I T N E S S E T H:

WHEREAS, for the purpose and subject to the terms and conditions hereinafter set forth, the COUNTY hereby contracts for the items, goods, service or services of the CONTRACTOR and the CONTRACTOR agrees to provide the items, goods, service or services to the COUNTY in accordance with the terms of this Agreement.

WHEREAS, the COUNTY is in need of Cost Per Copy Agreement to include: Equipment, Accessories, Service, and Supplies (Excludes paper, staples, fax supplies, & NC sales tax), and

WHEREAS, the CONTRACTOR has submitted a proposal to provide such goods and/or services.

NOW, THEREFORE, in consideration of promises mutually exchanged the Parties agree as follows:

1. GOODS AND/OR SERVICES. CONTRACTOR will provide the goods and/or services as set forth in the Specifications (Attachment ___) and Proposal (Attachment ___), attached hereto and incorporated herein by reference. All items and/or services shall be provided in a competent, workmanlike and professional manner acceptable to the COUNTY. Should there be any discrepancy between the CONTRACTOR'S Proposal (Attachment ___) and the Specifications (Attachment ___) and/or the Contract, the Contract and/or the Specifications (Attachment ___) shall prevail and control.

2. PAYMENT AND PRICING. As full compensation for the CONTRACTOR'S delivery of the goods and/or services, the COUNTY agrees to pay the amounts for the goods and/or services as set out herein and in Attachment ___ , which is attached hereto and incorporated herein by reference. Payment will be made by the COUNTY to the CONTRACTOR within thirty (30) days of receipt of a correct invoice and proper documentation that the goods and/or services have been delivered or provided in accordance with this Contract.

3. PRICE ONLY CONTRACT. The COUNTY is not financially committed by this Contract to purchase any minimum amount of goods and/or services. The financial exposure to the COUNTY under this Contract is not expected to exceed . Payment will be made only from budgeted funds in accordance with N.C.G.S. Chapter 159.

4. APPROPRIATION. This Contract is subject to annual appropriation of funds by the GUILFORD COUNTY Board of Commissioners or other funding source, pursuant to N.C.G.S. Chapter §153A-13.

5. TERM. Unless terminated as provided herein, this Contract shall be in effect for Thirty-Six (36) Months, beginning July 01, 2023, and ending June 30, 2026, with the option to extend for Two (2), One (1) year renewals at the same pricing and terms and conditions upon mutual written agreement of both Parties.

6. AMENDMENTS. The terms of this Agreement may only be modified or revised with a written Contract executed by both Parties.

7. TERMINATION.

TERMINATION FOR CONVENIENCE.

COUNTY may terminate this Contract without cause or penalty upon serving a 90 day written notice to the CONTRACTOR. Subject to this Contract's provisions regarding breach, all goods and/or services provided and accepted as of the date of termination will be paid; similarly, amounts paid in advance, if any, for which goods and/or services have not been provided and accepted by COUNTY will be promptly refunded to COUNTY by CONTRACTOR within thirty (30) days of date of termination of this Contract.

TERMINATION FOR CAUSE.

If CONTRACTOR fails to fulfill its obligations under this Contract in a timely and/or proper manner ("breach"), either in whole or in part, and such breach continues for a period of more than ten (10) days after COUNTY has notified CONTRACTOR of such breach, COUNTY shall have the right to terminate this Contract immediately thereafter by giving written notice to the CONTRACTOR specifying the effective date thereof. In that event, without limiting COUNTY's remedies for breach, any or all finished and/or unfinished deliverables prepared by the CONTRACTOR under this Contract shall, at the option of the COUNTY, become COUNTY property and CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work completed and accepted on such deliverables, minus any payment or compensation previously made, and subject to any applicable setoff(s).

8. BREACH. If, through any cause, CONTRACTOR or COUNTY ("the breaching party") shall fail to fulfill its obligations under this Contract in a timely and/or proper manner ("breach"), either in whole or in part, and such breach has continued for a period of more than ten (10) days after the other party ("the non-breaching party") has notified the breaching party of such breach, in addition to the right to terminate the Contract upon notice to the breaching party, the non-breaching party shall have all legal, equitable, and administrative rights available under applicable law. Without limiting other remedies, where COUNTY is the non-breaching party COUNTY may: Withhold any payment due CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due COUNTY from such breach can be reasonably determined (at which time that amount shall be deducted from any payment(s) otherwise due to CONTRACTOR) and/or procure the contracted for services or goods from other sources and hold CONTRACTOR responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by CONTRACTOR shall constitute an act of breach under this Contract.

9. EQUAL EMPLOYMENT OPPORTUNITIES - AFFIRMATIVE ACTION. GUILFORD COUNTY and the awarded Vendor shall comply with Equal Employment Opportunities (EEO) requirements, and to take affirmative action to ensure that all individuals have an equal opportunity for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, genetic information, or veteran status under the Guilford County EEO Plan, as amended, implemented pursuant to 41 CFR Part 60-2.10(a)(3), 41 CFR §60-741.44(a) and 41 CFR §60-300.44(a), and in accordance with the following laws, as amended: Title VII and Title IX of the Civil Rights Act of 1964; The Equal Pay Act of 1963; Executive Order 11246; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973, as amended (Section 503); the Americans with Disabilities Act of 1990; the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA); the Civil Rights Restoration Act of 1988; NC General Statutes Chapters 116 and 126 and Title II of the Genetic Information Nondiscrimination Act of 2008, the North Carolina Equal Employment Opportunity Policy effective June 1, 2015, along with all other applicable federal and state laws governing equal employment opportunities.

10. FEDERAL FUNDING – UNIFORM GUIDANCE. The Parties agree that when utilizing federal funding in the performance of this Agreement, the Parties shall comply with all applicable provisions of 2 C.F.R. §200.326 and 2 C.F.R. Part 200, Appendix II, (Uniform Guidance), including, but not limited to: The Equal Employment Opportunity Clause (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148);

Copeland "Anti-Kickback" Act (40 U.S.C. §3145, as supplemented by Department of Labor (DOL) regulations, 29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708, as supplemented by DOL regulations at 29 C.F.R., Part 5. See 2 C.F.R. Part 200, Appendix II(E); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549(1986) and 12689(1989) at 2 C.F.R. Part 180 and the DHS' regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. Part 200, Appendix II(J) and §200.322); Rights To Inventions by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements (37 C.F.R. Part 401); Record Retention Requirements (2 C.F.R. §200-324); and subsequent amendments, which are incorporated herein by reference.

11. NOTICES. All notices pursuant to this Agreement shall be in writing and delivered personally or mailed by certified mail, registered mail, postage prepaid, with return receipt requested, at the addresses appearing below, but each Party may change such address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of three (3) days after mailing.

Michael Halford, Guilford County Manager
GUILFORD COUNTY
P.O. Box 3427 (zip code 27402)
301 West Market Street
Greensboro, NC 27401

TOSHIBA AMERICA BUSINESS SOLUTIONS, INC
Mailing Address:
City,State,Zip:

12. INDEPENDENT CONTRACTOR/INDEMNIFICATION CONTRACTOR shall operate as an independent contractor for all purposes. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the COUNTY and either the CONTRACTOR or any employee or agent of CONTRACTOR. CONTRACTOR is an independent contractor and not an employee, agent, joint venture or partner of the COUNTY. The Parties agree to each be solely responsible for their own acts or omissions in the performance of each of their individual duties hereunder, and shall be financially and legally responsible for all liabilities, costs, damages, expenses and attorney fees resulting from, or attributable to any and all of their individual acts or omissions to the extent allowable by law.

13. ASSUMPTION. If CONTRACTOR should undergo merger, acquisition, bankruptcy or any change in their ownership or their name for any reason, CONTRACTOR must immediately notify GUILFORD COUNTY in writing of these changes and provide the COUNTY with legal documentation supporting these changes, such as an Assumption Agreement, Bill of Sale, Articles of Incorporation, Articles of Amendment, sales contract, merger documents, etc. Further, CONTRACTOR will submit the name and address of the assuming CONTRACTOR'S registered agent for service of process and/or all notices required under this Contract.

14. SEVERABILITY. If any provision of this Contract is held unenforceable, then such provision will be modified to reflect the Parties' intention. All remaining provisions of this Contract shall remain in full force and effect.

15. FORCE MAJEURE. Neither Party shall be liable to the other Party for any failure or delay caused by events beyond such Party's control and not due to its own negligence, provided that such Party uses commercially reasonable efforts to resume performance as soon as reasonably practicable. The non-performing Party shall notify the other Party of the force majeure event within twenty-four (24) hours of the onset thereof. In the event that a force majeure event precludes CONTRACTOR from performing services and/or providing goods for a period of ten (10) consecutive business days, the COUNTY shall have the right to: (a) procure replacement goods and/or services from an alternative source and/or (b) terminate the Contract or portion(s) of Contract upon written notice to CONTRACTOR.

16. HEADINGS/TITLES/WORDING. Inclusion of titles of paragraphs or section headings, capitalization of certain words or phrases and/or bold face typestyle of certain words or phrases in this Contract are for convenience purposes only and shall not be used to interpret or construe the provisions of this Agreement. The terms "Contract" and "Agreement" have the same meaning and may be used interchangeably throughout this document. The terms "Attachment" and "Exhibit" have the same meaning and may be used interchangeably throughout this document.

17. GUILFORD COUNTY LIABILITY INSURANCE REQUIREMENTS.

WORKERS COMPENSATION: CONTRACTOR agrees to maintain coverage to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include employer's liability with limits of at least \$1,000,000.00 for each accident, \$1,000,000.00 for each employee, with at least a \$1,000,000.00 aggregate policy limit.

COMMERCIAL PROFESSIONAL LIABILITY: CONTRACTOR does hereby agree to maintain limits of at least \$1,000,000.00 per occurrence, per location, single limit for bodily injury liability and property damage liability, with at least a \$2,000,000.00 aggregate limit, per location. This shall include premises and/or operations, independent contractors, products and/or completed operations, broad form property damage and explosion, collapse and underground damage coverage, and a contractual liability endorsement.

BUSINESS AUTO LIABILITY: CONTRACTOR does hereby agree to maintain limits of at least \$1,000,000.00 per accident combined single limit for bodily injury liability and property damage. This should include owned vehicles, plus hired and non-owned vehicles.

COMMERCIAL GENERAL LIABILITY: CONTRACTOR does hereby agree to maintain limits of at least \$1,000,000.00 per occurrence, per location, single limit for bodily injury liability and property damage liability, with a \$2,000,000.00 aggregate limit, per location. This shall include premises and/or operations, independent contractors, products and/or completed operations, broad form property damage and explosion, collapse and underground damage coverage, and a contractual liability endorsement.

UNDERWRITING, ADDITIONAL INSURED, AND CANCELLATION NOTICE REQUIREMENTS: All insurance shall be written by companies with an AM Best rating "A" or higher. GUILFORD COUNTY shall be named as an additional insured on CONTRACTOR insurance policies, which shall be primary and not contributory to any other insurance that may be available to the COUNTY. Such certificates shall require that the policies shall not be canceled or reduced in coverage until thirty (30) days written notice of such cancellation or reduction has been received by CONTRACTOR and GUILFORD COUNTY.

MAINTENANCE OF INSURANCE COVERAGE AND RENEWAL DOCUMENTATION: CONTRACTOR original insurance policies or certified copies of policies may be required by COUNTY at any time. Current, valid insurance policies meeting the requirements stated herein shall be maintained for the duration of the Agreement. Renewed policies shall be sent to the COUNTY at the above address thirty (30) days prior to any expiration date.

Upon the COUNTY's offer of award of this Agreement, CONTRACTOR will provide Certificates of Insurance for meeting the required insurance provisions. The Certificate of Liability shall state, "Guilford

County is added as an additional insured as evidenced by the endorsement attached to this Certificate.” CONTRACTOR will provide copies of insurance certificate(s) Guilford County Purchasing with their award package.

All insurance documents required under this Contract shall be forwarded to:

GUILFORD COUNTY

Attention: Risk Management

301 West Market Street

Greensboro, NC 27401

Reference: GUILFORD COUNTY CONTRACT NO. **90005242**

With CONTRACTOR'S NAME: TOSHIBA AMERICA BUSINESS SOLUTIONS, INC

In the event CONTRACTOR fails to maintain and keep in force for the duration of this Contract the insurance required herein, the COUNTY may cancel and terminate this Contract without notice.

18. ENTIRE AGREEMENT. This Contract, including the Exhibits and/or Attachments, if any, sets forth the entire Agreement between the Parties. All prior conversations or writings between the Parties hereto or their representatives are merged within and extinguished. This Contract shall not be modified except by a writing subscribed to by all the Parties.

19. JURISDICTION. The Parties agree that this Contract is subject to the jurisdiction and laws of the State of North Carolina. The CONTRACTOR will comply with bid restrictions, if any, and applicable laws, including N.C.G.S. §143-129(j) regarding E-Verify. Any controversies arising out of this Contract shall be governed by and construed in accordance with the laws of the State of North Carolina. An Affidavit Regarding E-Verify is attached hereto and incorporated herein by reference as Attachment ____.

(The remainder of this page is intentionally left blank.
This Contract continues with signatures on the following page.)

WITNESS the following signatures and seals all pursuant to authority duly granted, effective as of the day and year first above written.

GUILFORD COUNTY

ATTEST:

Michael Halford Date
Guilford County Manager

Robin B. Keller Date
Guilford County Clerk to Board

**TOSHIBA AMERICA
BUSINESS SOLUTIONS, INC**

ATTEST:

Date
Title: _____
Print Name: _____

Date
Witness
Print Name: _____

This contract does not create an obligation to purchase and, therefore, has not been preaudited. Purchases under this contract shall only be made pursuant to purchase orders, each of which will contain a preaudit certificate.

Date
Guilford County Chief Financial Officer

Guilford County Department Director / Designee

Guilford County Assistant County Manager